

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANGEL ENCARNACION-HERNANDEZ, A42-896-109,

Petitioner,

-v-

07-CV-0550 (MAT)

ORDER

M. FRANCES HOLMES, District Director,
USCIS, Buffalo District Office,

Respondent.

Pro se petitioner Angel Encarnacion-Hernandez ("Petitioner") filed a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241 challenging a denial by the U.S. Immigration and Citizenship Services ("USCIS") of his N-600 Application for Certificate of Citizenship following a final order of removal. (Dkt. #1). The Court stayed petitioner's removal pending the disposition of his habeas petition. (Dkt. #2). Petitioner later requested from this Court a stay of the habeas petition pending the outcome of a subsequent N-600 application and appeal. (Dkt. #12). During that time, petitioner remained in the administrative custody of the Department of Homeland Security ("DHS").

The respondent filed a motion on May 11, 2010, requesting that the Court dismiss the instant § 2241 petition as moot because (1) the USCIS Administrative Appeals Office sustained petitioner's appeal of the denial of his N-600 and found that petitioner acquired United States citizenship through his father; (2) USCIS approved petitioner's N-600 Application for Certificate of

Citizenship; and (3) petitioner has been released from administrative custody. (Dkt. #17).

In light of the fact that petitioner has received the relief requested, i.e., a declaration of U.S. citizenship, release from DHS custody, and relief from removal, petitioner's motion to stay these proceedings is denied as moot, and the petition is dismissed for the same reason. See Davis v. New York, 316 F.3d 93, 99 (2d Cir. 2002) ("Under Article III, section 2 of the Constitution, federal courts lack jurisdiction to decide questions that cannot affect the rights of litigants in the case before them."); Martin-Trigona v. Shiff, 702 F.2d 380, 386 (2d Cir. 1983); Jiang Xue Qiang v. I.N.S., No. 05-CV-1878 (SLT), 2006 WL 1026710, *2 (E.D.N.Y. April 12, 2006) ("The documents appended to the government's response conclusively establish that the [§ 2241] Petition is moot because petitioner has already been granted the [relief] he seeks in his petition.")

The respondent's motion to dismiss the petition on the grounds of mootness is thereby granted. Accordingly, the Clerk of the Court is directed to close the file.

SO ORDERED.

S/Michael A. Telesca

MICHAEL A. TELESKA
United States District Judge

Dated: May 12, 2010
Rochester, New York